

# **Yellow Medicine County Board of Commissioners Policy Manual**

## **Policy Statement**

### **TITLE**

### **CODE**

**Purchasing and Contract Protocol and Authority**

**503**

### **REFERENCE**

M.S. 373.01	Counties - Powers
M.S. 375.21	Contracts of County Boards
M.S. 375.73	Duties of Purchasing Departments
M.S. 471.345	Uniform Municipal Contracting Law
M.S. 471.35	Specifications of Supplies and Equipment
M.S. 471.36	Noncompetitive Supplies and Equipment
M.S. 471.87	Public Officers - Interest In Contracts
M.S. 574.26	Contractors' Bonds for Public Work
2 CFR 200	Federal General Procurement Standards

### **PERSONNEL RESPONSIBLE**

All Purchasers

### **EFFECTIVE DATE**

01-27-04 (Updated 01-03-06; amended 06-26-07; amended 07-22-08; amended 04-27-10; amended 01-08-13; amended 10-25-16; amended 04-09-19)

### **POLICY**

#### **503.100 – Purchasing Philosophy**

**503.101** – Department heads need both flexibility and accountability in purchasing for their departments. Excessive restrictions create an atmosphere of micromanagement while too liberal a policy invites abuse and a lack of accountability. The intent of this policy is to provide a framework that allows department heads to operate as efficiently and economically as possible, within state statute, while allowing for oversight on their larger purchases. This document delineates the protocols and authority related to the purchasing of goods and services for Yellow Medicine County. It shall be followed by all County employees and officials.

**503.102** – It is County policy to purchase goods and services in the most professional, ethical, legal, and efficient manner possible; insuring quality, considering standardization, reasonable terms, and best value to the taxpayers of the County.

## **503.200 – Ethical Practices**

**503.201** – No elected official, employee, or immediate family member of an elected official or employee should have a financial interest, directly or indirectly, in any contract or purchase order for goods or services used by the County. Elected officials and employees should not accept or receive, directly or indirectly, from a vendor any promise, obligation, or contract for future reward or compensation. Any violation of this section may be a gross misdemeanor. (M.S. 471.87) (2 CFR 200.318 (c)(1)). See Personnel Policy section 201.750 for additional code of ethics and conflict of interest policies.

**503.202** – If an employee purchases or contracts for goods or services contrary to County policy, the purchase shall be void. In accordance with State laws, the Department Head shall be personally liable for the cost of the order or contract. If the order or contract has already been paid for out of County funds, the amount may be recovered by appropriate action.

## **503.300 – Responsibilities of Persons Who Purchase**

**503.301** – Department Heads who supervise the purchase of goods and services on behalf of the County have the following responsibilities:

- 1) Follow County policies when purchasing items within their scope of responsibility.
- 2) Properly document purchases.
- 3) Maintain vendor histories/records (2 CFR 200.318 (i)).
- 4) Avoid unnecessary or duplicative purchases (2 CFR 200.318 (d))
- 5) Consider lease versus purchase alternatives (2 CFR 200.318 (d))
- 4) Provide information on estimated costs for budget purposes and solicit bids, estimates, or quotations.
- 5) Determine if the purchase of an item through a Cooperative Purchasing Venture (CPV) or use of Federal excess and surplus property is beneficial to the County. (2 CFR 200.318 (e) and (f))
- 6) Submit a Property Acquisition/Disposal Record to Finance & Administration for all capital purchases to ensure proper asset documentation and binding of insurance coverage.
- 7) Provide oversight to ensure contractors perform in accordance with terms, conditions, and specifications of contracts or purchases.

## **503.400 – Purchasing Protocol**

**503.401** – Budgeted funds must be available before a purchase commitment is made. If sufficient funds are not available, a reallocation or additional appropriation request must be submitted.

**503.402** – Contracts - All written contracts, regardless of amount, require County Board approval. Written contracts for less than \$10,000 in goods and/or services, and already

included in the departmental budget, will be treated as consent agenda items. All other written contracts will be regular agenda items.

**503.403** – Purchases of less than \$5,000 (\$3,000 if federally funded)– If the amount of the purchase is \$5,000 or less, the purchase may be made either by quotation or by direct negotiation in the open market. If practicable, at least two quotations should be obtained and kept on file for a period of at least one year. The following steps should be considered for quotations:

- 1) Specifications should be drafted by the Department Head or designee.
- 2) Specifications should be provided to at least 2 vendors.
- 3) Upon receipt of the quotations, an award should be made by the Department Head or designee.

**503.404** – Purchases exceeding \$5,000 (\$3,000 if federally funded) but not \$25,000 – The same protocol as stated in 503.403 will be followed with the additional requirement of County Board approval.

**503.405** – Purchases exceeding \$25,000 but not \$175,000. If the amount of the contract is estimated to exceed \$25,000 but not to exceed \$175,000, the purchase may be awarded through either a sealed bid process or by quotation. If the purchase is made by quotation, at least two quotes should be obtained when possible and kept on file for a period of at least one year. If sealed bids are used, the process outlined in 503.407 must be used. A recommendation must then be presented to the County Board for action.

**503.406** – Purchases over \$175,000 - If the amount of the purchase is estimated to exceed \$175,000, sealed bids shall be solicited by public notice, unless the purchase is through a bid obtained by the State of Minnesota and available to counties. The following steps should be considered for sealed bids (2 CFR 200.320):

- 1) Specifications shall be drawn by the Department Head or designee. Specifications shall be available for public inspection at the applicable department office.
- 2) Authorization shall be requested from the County Board to advertise for bids by the Department Head or designee.
- 3) The bid solicitation shall be published in the official County newspaper. When sealed bids are solicited, an advertisement shall be placed in the legal newspaper for two weeks for purchases of property or for work and labor and for three weeks for the construction or repair of roads, bridges or buildings (MN Statute 375.21). The advertisement shall state at a minimum where the location of the bid specification can be picked up and dropped off, a deadline date for submission of bids, the date and time the bids will be opened, the bid documents required for consideration, and any bid bond if applicable. In addition, proposals and specifications may be sent to the names listed on any prospective vendor's list maintained by the department.
- 4) Bids shall be properly dated and stamped.
- 5) Bids shall be opened, reviewed, and awarded at a specific time and date as prescribed by the County Board. The applicable department head will present the board with the bids from vendors. Next, the applicable department head will make a recommendation to the Board on the bids as submitted. Once the board

has given approval the applicable department head will send all bidders the results of the County Board's decision on the bids.

- 6) Bids may be accepted or rejected for any reason or no reason. If no satisfactory bid is received, the Board may readvertise.
- 7) It is the intent of Yellow Medicine County to award the contract to the lowest responsible bidder or bidders meeting the specifications and/or minimum qualifications. The County Board shall have the right to waive any informalities or irregularity in any bid or bids received. Award recommendations to the County Board will be based on, but not limited to, the following general criteria (2 CFR 200.318 (h)):
  - a) adherence to all conditions and requirements of bid specifications
  - b) total bid price including any discounts, unit price or extended price
  - c) good faith of the bidder to meet the County's requirements
  - d) experience of the bidder
  - e) evaluation of the bidder's ability to service the County's needs
  - f) financial responsibility of the bidder
  - g) prior knowledge of and experience with the bidder, in terms of past performances
  - h) needs and requirements of the County
  - i) experience with products involved
  - j) size and location of the bidder
  - k) quantity and quality of merchandise offered
  - l) product appearance
  - m) overall completeness of product line offered
  - n) ability of meeting completion and delivery requirements
  - o) the successful bidder agrees to comply with the Data Practice Act
  - p) the County shall obtain certification from the contractor that neither the contractor or any of its principal employees are listed on the Excluded Parties List System in SAM (2 CFR 200.318 (h)). Certification will be maintained per the County's record retention policy.

**503.407 – Use of Cooperative Purchasing Venture –** The County, on an annual basis, renews its membership in the Cooperative Purchasing Venture (CPV) administered by the Minnesota State Department of Administration. For a contract estimated to exceed \$25,000, the County must consider the availability, price and quality of supplies, materials, or equipment available through the state's cooperative purchasing venture before purchasing through another source.

**503.408 – Contractors' Performance and Payment Bonds -** Public entities are required to obtain both a payment bond and a performance bond for all public work contracts over \$175,000 (M.S. 574.26). Payment and performance bonds protect the public entity as well as subcontractors and persons providing labor and materials. The performance bond helps ensure that the work will be completed according to the terms of the contract. The payment bond helps ensure that subcontractors, and people who provide labor and materials, are paid. Payment and performance bonds are collectively referred to as a contractor's bond. When a public work contract is let, the amount of the bond needs to be equal to the contract price. However, if the contract price increases "for any reason, the public body may require additional bonds, the penalties of which shall be not less than the amount of the increase ...." Therefore, if the contract price increases

due to change orders, unforeseen conditions, cost overruns or any other reason after the contract is signed, the County has the option of increasing the amount of the contractor's bond.

**503.409 – Uniform Guidance Requirements –** Public entities entering into contracts using federal awards must contain the following additional contract provisions (2 CFR 200.326):

- 1) For contracts using federal grants of \$150,000 or more, the contract provisions must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- 2) For contracts and subawards using federal grants of \$150,000 or more, the County shall comply with the Clean Air Act under 42 U.S.C. 7491-7671q and the Federal Water Pollution Control Act (33 U.S.C 1251-1387).
- 3) For contracts or subgrants using federal grants of \$100,000 or more, the County shall obtain a certification from the contractor or sub-grantee that it complies with the Byrd Anti-Lobbying Amendment under 31 U.S.C. 1352. Certifications will also be collected if the County is a sub-recipient of a federal grant. (2 CFR 200.318 (i))
- 4) For contracts in excess of \$100,000 using federal awards, the County will require contractors using the employment of mechanics and laborers to comply with 40 U.S.C. 3702 and 3704. (2 CFR 200.318 (E)).
- 5) Contracts in excess of \$10,000 using federal awards must address termination for cause and for convenience by the County in a manner by which it will be effected and the basis for settlement.
- 6) Contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided in 41 CFR 60-1.4b.
- 7) All prime construction contracts in excess of \$2,000 must include provisions for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148).
- 8) Contracts in excess of \$100,000 that involve the employment of mechanics or laborers must include contract provisions for compliance with the Contract Work Hours Safety Standards Act (40 U.S.C. 3701-3708).
- 9) The County will not enter into contracts with parties debarred, suspended or otherwise excluded in the System for Award Management (SAM).

## **503.500 – Bid and Quotation Specifications**

**503.501 – Preparation –** Written specifications should be prepared with the following criteria in mind (2 CFR 200.319):

- 1) Conformance to acceptable industry-wide standards.
- 2) Clear, definite, and concise.
- 3) Describe the performance requirements, rather than its formulation, description, or design.
- 4) Framed to permit, to the extent possible, free and full competition.

- 5) Consider cost, length, and terms of any warranty provisions, reliability and maintenance costs, and repurchase value of the equipment after a specified number of years.
- 6) Should not exclude all but one type or kind except when permitted by law.
- 7) Should not call for features or for a level of quality not needed for the intended use, except in cases where such features or the level of quality are essential for some future consideration or result in overall economic advantage to the County.
- 8) If an error in the specification is found, the County reserves the right to correct the specification with notification to all bidders, or the County may, in its sole discretion, cancel the bid call. The County may waive any minor irregularity or error which it finds, in the best interest of the County.
- 9) Any changes to specifications must be mailed to all who are known by the applicable department head to have received the specification. Any interested respondents shall promptly notify the applicable department head of any ambiguity, inconsistency or error in writing, which may be discovered upon examination of the specification. Clarification or interpretation of the specification shall only be made by the applicable department head or County Board.
- 10) The County Board may require that a bidder provide a bid bond or other security at an amount satisfactory to the Board as a proposal guaranty that the bidder will enter into a contract if its bid is accepted. The County Board may also require other bonds and insurance as provided in 503.409 above or as appropriate.

**503.502 – Restrictive Specifications** – Some latitude is permissible in specifying features of certain items. While it is not necessary to prepare specifications in a manner that every conceivable manufacturer could compete, the County must be able to demonstrate a clear reason for any restrictive specifications and provide clear and accurate description of technical requirements. If a minimum standard for wages with respect to the employees of a contractor is desired by the County or is required for compliance with State or Federal laws, the specification should include such a prevailing wage rate unless otherwise provided in any applicable Federal law. (M.S. 177.42) (2 CFR 200.319)

**503.503 – Professional Services** – Purchasing professional services creates a different relationship than normally exists in a buyer-seller transaction. The purchasing protocol needs to take into consideration qualifications, character, and mutual trust. For these reasons, qualifications, competency, and availability of the most qualified firms must be considered initially and independent of cost. Procuring professional services consists of three major elements:

- 1) Submittal of proposals;
- 2) Review of proposals submitted and selection of preferred proposal; and
- 3) Negotiation of price.

For purposes of this policy, professional services include at least the following:

- 1) Architectural and engineering services;
- 2) Personnel consultation;
- 3) Technology consultation;
- 4) Legal services (beyond that provided by the County Attorney);
- 5) Financial consultation; and
- 6) Insurance consultation. (2 CFR 200.319 (d)(5))

**503.504 – Documentation of Purchasing Process** – Proper documentation of the purchasing process is necessary for accountability. Persons making purchasing decisions should be able to provide proof of compliance with the purchasing policy and State and Federal law. (2 CFR 200.318 (i))

**AUTHORED BY:** Administrator  
**DATE:** 01-07-04

**APPROVED BY:** County Board  
**DATE:** 01-03-06  
Amended 06-26-07  
Amended 07-22-08  
Amended 01-08-13  
Amended 10-25-16  
Amended 04-09-19

Data Entry Use Only	
Index #:	_____
Asset Type:	_____
Fund #:	_____
Dept #:	_____
Warrant #:	_____
Date paid:	_____
Unit #:	_____

**Yellow Medicine County**  
**Capital Asset Input Form**

**PURCHASE OF CAPITAL ASSETS**  
**VALUED AT \$500 or MORE**

Department Name : \_\_\_\_\_

Account #: \_\_\_\_\_

Location: \_\_\_\_\_

Description: \_\_\_\_\_

Model Number: \_\_\_\_\_

Serial Number: \_\_\_\_\_

Date of Acquisition: \_\_\_\_\_

Name of Vendor: \_\_\_\_\_

Purchase Price: \_\_\_\_\_

Please enter information below for assets over \$5,000	
Estimated Useful Life:	_____
Estimated Salvage Value:	_____



Data Entry Use Only	
Index #:	_____
Asset Type:	_____
Fund #:	_____
Dept #:	_____
Warrant #:	_____
Date paid:	_____
Unit #:	_____

Yellow Medicine County  
Capital Asset Input Form

## CAPITAL ASSET ADJUSTMENTS

### Disposals - Sales - Transfers

Department Name : \_\_\_\_\_

<b>IF DISPOSED OF</b>	
Index #:	_____
Description:	_____
Date Disposed of:	_____

<b>IF SOLD</b>	
Index #:	_____
Amount of Sale:	_____
Description:	_____
Date Sold:	_____

<b>IF TRANSFERRED</b>	
Index #:	_____
Transferred to Dept.:	_____
Description:	_____
Date Transferred	_____